

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TERRANCE A. TARVER,)	
Plaintiff,)	
)	
v.)	Criminal Action No. 01-36
)	
UNITED STATES OF AMERICA,)	
Defendant.)	

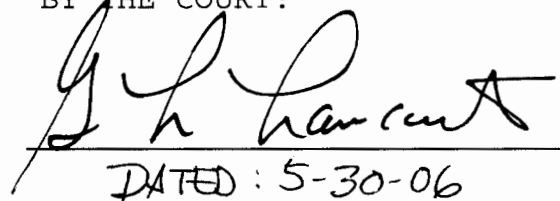
ORDER OF COURT

Before the court is Terrance A. Tarver's pro se "Motion for Adjustment of Concurrent Sentence." By this motion, Mr. Tarver complains that the Bureau of Prisons has not properly credited him for time served prior to sentencing pursuant to 18 U.S.C. § 3585(b). However, the decision whether to award such an adjustment, and if so, the proper calculation of the adjustment, is within the exclusive province of the Bureau of Prisons. My statement at the time of sentencing that "defendant be given credit for all time served" is a non-binding recommendation to the Bureau of Prisons, not a mandatory direction. See Bailey v. Nash, 134 Fed.Appx. 503 (3d Cir. 2005).

Apparently as an alternative, Mr. Tarver requests that I resentence him at this time and lower his sentence, taking into account the disputed time served, as well as, his exemplary rehabilitation while in prison.

If I had the discretion to now change his sentence (which I do not) I would not do so. Mr. Tarver's original sentence was 324 months incarceration. Subsequent to Mr. Tarver's initial sentencing, I reduced his sentence to 120 months because of his cooperation with the authorities. Any further reduction in his sentence is unwarranted. The motion is denied.

BY THE COURT:

 J.
DATED: 5-30-06

cc: Terrance A. Tarver
FCI - Morgantown
P.O. Box 1000
Morgantown, WVA 26507-1000

Margaret Picking, AUSA